

Superior Court
of the
State of Delaware

Jan R. Jurden
President Judge

Leonard L. Williams Justice Center
500 North King Street, Suite 10400
Wilmington, Delaware 19801-3733
Telephone (302) 255-0665

Date Submitted: September 8, 2022

Date Decided: October 11, 2022

Anthony Gordon
SBI #00211789
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: State v. Anthony Gordon, ID# 1109011777

Dear Mr. Gordon:

The Court is in receipt of your “Motion for Rule 35(A) Illegal Sentence” (“Motion”) filed September 8, 2022.¹ You argue that the indictment “did not contain sufficient facts to differentiate each count,” making Count II and Count IV “cumulative sentences.”² You state that the alleged insufficiency violates the Double Jeopardy Clause.³

The Double Jeopardy Clause protects against multiple punishments for the same offense,⁴ but it does not apply here because you were convicted of three separate offenses.⁵ The underlying specifics of each offense were discussed at trial.⁶ The jury was instructed on three separate counts: Counts I and II, each a separate count of Rape Second Degree, and Count IV, Rape Fourth Degree.⁷ The jury found you guilty on all three counts.⁸ Each of your sentences corresponds to a distinct

¹ D.I. 154. This is Defendant’s fourth Rule 35(a) motion. *See* D.I. 127; D.I. 138; D.I. 144.

² D.I. 154.

³ *Id.*

⁴ *See Seward v. State*, 723 A.2d 365, 375 (Del. 1999).

⁵ D.I. 33.

⁶ D.I. 52 at 27:19-30:10, 30:11-34:6, 34:7-37:15, 44:5-47:5, 47:6-49:1, and 49:2-51:14.

⁷ D.I. 53 at 80-84.

⁸ D.I. 33.

count: for Count I, Rape Second Degree, 10 years of imprisonment;⁹ for Count II, Rape Second Degree, 10 years of imprisonment;¹⁰ and for Count IV, Rape Fourth Degree, 15 years of imprisonment suspended after 1 year for decreasing levels of supervision.¹¹ Because your convictions reflect three separate offenses, this is not an instance of multiple punishments for a singular offense.

While your fourth 35(a) motion alleges your indictment was insufficient, the Court has explained numerous times the indictment complied with Rule 7(c).¹² Your sentence is legal and your argument is without merit.

For the reasons stated, your Motion is **DENIED**.

Very truly yours,

/s/ Jan R. Jurden

Jan R. Jurden
President Judge

JRJ:apm

cc: Prothonotary
Abigail E. Rodgers, DAG

⁹ The first ten years of this sentence are a mandatory term of incarceration pursuant to 11 *Del. C.* § 772(a)(1). Defendant was given 193 days of credit for the time he had already served. *See* D.I. 43.

¹⁰ The first ten years of this sentence are a mandatory term of incarceration pursuant to 11 *Del. C.* § 772(a)(1).

¹¹ D.I. 43.

¹² D.I. 128; D.I. 145; D.I. 148.